

Senate File 128 - Reprinted

SENATE FILE _____
BY COMMITTEE ON WAYS AND MEANS
(SUCCESSOR TO SSB 1055)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to an increase in the taxes on cigarettes and
2 tobacco products, imposing an inventory tax on tobacco
3 products, creating a health care trust fund, providing for a
4 standing appropriation, and providing an effective date and
5 providing an applicability provision.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 1 Section 1. Section 421B.2, subsection 3, paragraph b, Code
1 2 2007, is amended to read as follows:
1 3 b. The cost of doing business by the retailer is presumed
1 4 to be ~~six~~ eight percent of the basic cost of cigarettes in the
1 5 absence of proof of a lesser or higher cost plus the full face
1 6 value of any stamps which may be required by any cigarette tax
1 7 act of this state to the extent not already included in the
1 8 basic cost of cigarettes.
1 9 Sec. 2. Section 421B.2, subsection 4, paragraph b, Code
1 10 2007, is amended to read as follows:
1 11 b. The cost of doing business by the wholesaler is
1 12 presumed to be ~~three~~ four percent of the basic cost of
1 13 cigarettes in the absence of proof of a lesser or higher cost,
1 14 which includes cartage to the retail outlet, plus the full
1 15 face value of any stamps which may be required by any
1 16 cigarette tax act of this state to the extent not already
1 17 included in the basic cost of cigarettes.
1 18 Sec. 3. Section 453A.6, subsection 1, Code 2007, is
1 19 amended to read as follows:
1 20 1. There is imposed, and shall be collected and paid to
1 21 the department, ~~the following taxes~~ a tax on all cigarettes
1 22 used or otherwise disposed of in this state for any purpose
1 23 ~~whatsoever~~;
1 24 ~~Class A. On cigarettes weighing not more than three pounds~~
1 25 ~~per thousand, eighteen mills on each such cigarette.~~
1 26 ~~Class B. On cigarettes weighing more than three pounds per~~
1 27 ~~thousand, eighteen mills equal to six and eight-tenths cents~~
1 28 ~~on each such cigarette.~~
1 29 Sec. 4. Section 453A.6, Code 2007, is amended by adding
1 30 the following new subsection:
1 31 NEW SUBSECTION. 7. Cigarettes shall be sold only in
1 32 packages of twenty or more cigarettes.
1 33 Sec. 5. Section 453A.35, Code 2007, is amended to read as
1 34 follows:
1 35 453A.35 TAX AND FEES PAID TO GENERAL FUND == STANDING
2 1 APPROPRIATION TO HEALTH CARE TRUST FUND.
2 2 1. The proceeds derived from the sale of stamps and the
2 3 payment of taxes, fees and penalties provided for under this
2 4 chapter, and the permit fees received from all permits issued
2 5 by the department, shall be credited to the general fund of
2 6 the state. However, beginning July 1, 2007, of the revenues
2 7 generated from the tax on cigarettes pursuant to section
2 8 453A.6, subsection 1, and from the tax on tobacco products as
2 9 specified in section 453A.43, subsections 1, 2, 3, and 4, and
2 10 credited to the general fund of the state under this
2 11 subsection, there is appropriated, annually, to the health
2 12 care trust fund created in section 453A.35A, the first one
2 13 hundred twenty-seven million six hundred thousand dollars.
2 14 2. All permit fees provided for in this chapter and
2 15 collected by cities in the issuance of permits granted by the

2 16 cities shall be paid to the treasurer of the city where the
2 17 permit is effective, or to another city officer as designated
2 18 by the council, and credited to the general fund of the city.
2 19 Permit fees so collected by counties shall be paid to the
2 20 county treasurer.

2 21 Sec. 6. NEW SECTION. 453A.35A HEALTH CARE TRUST FUND.

2 22 A health care trust fund is created in the office of the
2 23 treasurer of state. The fund consists of the revenues
2 24 generated from the tax on cigarettes pursuant to section
2 25 453A.6, subsection 1, and from the tax on tobacco products as
2 26 specified in section 453A.43, subsections 1, 2, 3, and 4, that
2 27 are credited to the general fund of the state and appropriated
2 28 to the health care trust fund, annually, pursuant to section
2 29 453A.35. Moneys in the fund shall be separate from the
2 30 general fund of the state and shall not be considered part of
2 31 the general fund of the state. However, the fund shall be
2 32 considered a special account for the purposes of section 8.53
2 33 relating to generally accepted accounting principles. Moneys
2 34 in the fund shall be used only as specified in this section
2 35 and shall be appropriated only for the uses specified. Moneys
3 1 in the fund are not subject to section 8.33 and shall not be
3 2 transferred, used, obligated, appropriated, or otherwise
3 3 encumbered, except as provided in this section.
3 4 Notwithstanding section 12C.7, subsection 2, interest or
3 5 earnings on moneys deposited in the fund shall be credited to
3 6 the fund.

3 7 Moneys in the fund shall be used only for purposes related
3 8 to health care, substance abuse treatment and prevention, and
3 9 tobacco use prevention, cessation, and control.

3 10 Sec. 7. Section 453A.40, subsection 1, Code 2007, is
3 11 amended to read as follows:

3 12 1. All persons required to obtain a permit or to be
3 13 licensed under section 453A.13 as distributors or section
3 14 453A.44 having in their possession and held for resale on the
3 15 effective date of an increase in the tax rate cigarettes, ~~or~~
3 16 little cigars, or tobacco products upon which the tax under
3 17 section 453A.6 or 453A.43 has been paid, unused cigarette tax
3 18 stamps which have been paid for under section 453A.8, ~~or~~
3 19 unused metered imprints which have been paid for under section
3 20 453A.12, or tobacco products for which the tax has not been
3 21 paid under section 453A.46 shall be subject to an inventory
3 22 tax on the items as provided in this section.

3 23 Sec. 8. Section 453A.42, Code 2007, is amended by adding
3 24 the following new subsection:

3 25 NEW SUBSECTION. 11A. "Snuff" means any finely cut,
3 26 ground, or powdered tobacco that is not intended to be smoked.

3 27 Sec. 9. Section 453A.42, subsection 14, Code 2007, is
3 28 amended to read as follows:

3 29 14. "Tobacco products" means cigars; little cigars as
3 30 defined herein; cheroots; stogies; periques; granulated, plug
3 31 cut, crimp cut, ready rubbed, and other smoking tobacco;
3 32 snuff; ~~snuff flour~~ cavendish; plug and twist tobacco;
3 33 fine-cut and other chewing tobaccos; shorts; refuse scraps,
3 34 clippings, cuttings and sweepings of tobacco, and other kinds
3 35 and forms of tobacco, prepared in such manner as to be
4 1 suitable for chewing or smoking in a pipe or otherwise, or
4 2 both for chewing and smoking; but shall not include cigarettes
4 3 as defined in section 453A.1, subsection 3.

4 4 Sec. 10. Section 453A.43, Code 2007, is amended to read as
4 5 follows:

4 6 453A.43 TAX ON TOBACCO PRODUCTS.

4 7 1. a. A tax is imposed upon all tobacco products in this
4 8 state and upon any person engaged in business as a distributor
4 9 of tobacco products, at the rate of twenty-two percent of the
4 10 wholesale sales price of the tobacco products, except little
4 11 cigars and snuff as defined in section 453A.42.

4 12 b. In addition to the tax imposed under paragraph "a", a
4 13 tax is imposed upon all tobacco products in this state and
4 14 upon any person engaged in business as a distributor of
4 15 tobacco products, at the rate of twenty-eight percent of the
4 16 wholesale sales price of the tobacco products, except little
4 17 cigars and snuff as defined in section 453A.42, with the
4 18 limitation that if the tobacco product is a cigar, the
4 19 additional tax shall not exceed fifty cents per cigar.

4 20 c. Little cigars shall be subject to the same rate of tax
4 21 imposed upon cigarettes in section 453A.6, payable at the time
4 22 and in the manner provided in section 453A.6; and stamps shall
4 23 be affixed as provided in division I of this chapter. Snuff
4 24 shall be subject to the tax as provided in subsections 3 and
4 25 4.

4 26 d. The ~~tax~~ taxes on tobacco products, excluding little

4 27 cigars and snuff, shall be imposed at the time the distributor
4 28 does any of the following:

4 29 ~~a. (1)~~ Brings, or causes to be brought, into this state
4 30 from ~~without outside~~ the state tobacco products for sale.

4 31 ~~b. (2)~~ Makes, manufactures, or fabricates tobacco
4 32 products in this state for sale in this state.

4 33 ~~c. (3)~~ Ships or transports tobacco products to retailers
4 34 in this state, to be sold by those retailers.

4 35 2. ~~a.~~ A tax is imposed upon the use or storage by
5 1 consumers of tobacco products in this state, and upon the
5 2 consumers, at the rate of twenty-two percent of the cost of
5 3 the tobacco products.

5 4 ~~b.~~ In addition to the tax imposed in paragraph "a", a tax
5 5 is imposed upon the use or storage by consumers of tobacco
5 6 products in this state, and upon the consumers, at a rate of
5 7 twenty-eight percent of the cost of the tobacco products, with
5 8 the limitation that if the tobacco product is a cigar, the
5 9 additional tax shall not exceed fifty cents per cigar.

5 10 ~~c.~~ The ~~tax taxes~~ imposed by this subsection shall not
5 11 apply if the ~~tax taxes~~ imposed by subsection 1 on the tobacco
5 12 products ~~has have~~ been paid.

5 13 ~~d. This tax~~ The taxes imposed under this subsection shall
5 14 not apply to the use or storage of tobacco products in
5 15 quantities of:

5 16 ~~a. (1)~~ Less than 25 ~~twenty-five~~ cigars.

5 17 ~~b. Less than 10 oz. snuff or snuff powder.~~

5 18 ~~c. (2)~~ Less than ~~1 lb.~~ one pound smoking or chewing
5 19 tobacco or other tobacco products not specifically mentioned
5 20 herein, in the possession of any one consumer.

5 21 3. ~~A tax is imposed upon all snuff in this state and upon~~
5 22 ~~any person engaged in business as a distributor of snuff at~~
5 23 ~~the rate of one dollar and nineteen cents per ounce, with a~~
5 24 ~~proportionate tax at the same rate on all fractional parts of~~
5 25 ~~an ounce of snuff. The tax shall be computed based on the net~~
5 26 ~~weight listed by the manufacturer. The tax on snuff shall be~~
5 27 ~~imposed at the time the distributor does any of the following:~~

5 28 ~~a. Brings or causes to be brought into this state from~~
5 29 ~~outside the state, snuff for sale.~~

5 30 ~~b. Makes, manufactures, or fabricates snuff in this state~~
5 31 ~~for sale in this state.~~

5 32 ~~c. Ships or transports snuff to retailers in this state,~~
5 33 ~~to be sold by those retailers.~~

5 34 4. A tax is imposed upon the use or storage by consumers
5 35 of snuff in this state, and upon the consumers, at the rate of
6 1 one dollar and nineteen cents per ounce with a proportionate
6 2 tax at the same rate on all fractional parts of an ounce of
6 3 snuff. The tax shall be computed based on the net weight as
6 4 listed by the manufacturer.

6 5 The tax imposed by this subsection shall not apply if the
6 6 tax imposed by subsection 3 on snuff has been paid.

6 7 The tax shall not apply to the use or storage of snuff in
6 8 quantities of less than ten ounces.

6 9 3. 5. Any tobacco product with respect to which a tax has
6 10 once been imposed under this division shall not again be
6 11 subject to tax under ~~said~~ this division, except as provided in
6 12 section 453A.40.

6 13 4. 6. The tax imposed by this section shall not apply
6 14 with respect to any tobacco product which under the
6 15 Constitution and laws of the United States may not be made the
6 16 subject of taxation by this state.

6 17 5. 7. The tax imposed by this section shall be in
6 18 addition to all other occupation or privilege taxes or license
6 19 fees now or hereafter imposed by any city or county.

6 20 6. 8. All excise taxes collected under this chapter by a
6 21 distributor or any individual are deemed to be held in trust
6 22 for the state of Iowa.

6 23 Sec. 11. APPLICABILITY. Notwithstanding section 453A.40
6 24 as amended in this Act, persons required to obtain a permit or
6 25 license as specified in that section shall not be subject to
6 26 an inventory tax on the items as provided in that section as a
6 27 result of the tax increases provided in this Act.

6 28 Sec. 12. EFFECTIVE DATE. This Act, being deemed of
6 29 immediate importance, takes effect upon enactment.

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